

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Yury KALNITSKY
 Application No. : 10/760,137 Filed : January 16, 2004
 Title : NETWORK ARCHITECTURE FOR DATA TRANSMISSION
 Examiner : Chirag R. PATEL
 Art Unit : 2141 Confirmation No. : 7187

Commissioner for Patents
 PO Box 1450
 Alexandria VA 22313-1450

DECLARATION OF FRANK J. DEROSA
IN SUPPORT OF REQUEST TO WITHDRAW HOLDING OF ABANDONMENT

I, Frank J. DeRosa, declare as follows:

1. I am an attorney licensed to practice in the State of New York and before the U.S. Patent and Trademark Office (Reg. No. 26,543).
2. I have been a partner in the law firm of Frommer Lawrence & Haug LLP (“Frommer Lawrence”) from June 14, 2007 to date, and prior to that, a partner in the law firm of Thelen Reid Brown Raysman & Steiner LLP (“Thelen Reid”).
3. I have primary responsibility for the prosecution of the above-identified application at Frommer Lawrence, and previously at Thelen Reid.
4. Responsibility for prosecution of the above-identified application was transferred from Thelen Reid to Frommer Lawrence when I joined Frommer Lawrence on June 14, 2007.
5. Suzanne Graziano has been my legal assistant since mid-April 2006 to date, first at Thelen Reid and now at Frommer Lawrence. Ms. Graziano and I coordinated with Thelen Reid to change the customer number for the above identified application and other applications and patents from that of Thelen Reid to that of Frommer Lawrence.
6. I received a copy of Request Exhibits A and B (attached to Graziano Decl.) by email dated August 29, 2007 from Thelen Reid.
7. Ms. Graziano and I had recently noticed that the change of the customer number requested by Request Exhibits A and B had not been entirely successful because the correspondence address for a few applications was not changed to Frommer Lawrence, and I was not listed as an attorney of record for many applications where the correspondence address was changed to Frommer Lawrence.

8. Therefore, I requested that Ms. Graziano view status in public and private PAIR of patent applications listed in Request Exhibit B to determine whether the correspondence address had been changed per Request Exhibits A and B.

9. I also requested that Ms. Graziano prepare new powers of attorney and Statements under 37 C.F.R. § 3.73(b) for each application transferred from Thelen Reid to Frommer Lawrence where either or both the correspondence address or the attorneys of record were not correct, with the first of the new powers being filed by Ms. Graziano on March 27, 2008.

10. As part of her review, Ms. Graziano discovered that a Notice of Allowance had been mailed in the above-identified application on December 13, 2007, that the Issue fee had not been paid, and that the application was abandoned, and so informed me on April 10, 2008.

11. I do not remember seeing the Notice of Allowance prior to April 10, 2008, and I was surprised to learn of it. If I had seen the Notice of Allowance prior to April 10, 2008, I believe that I would have reported it to the Assignee and remembered it.

12. I directed the firm's patent prosecution docket paralegals to search the firm's electronic docket system for any record of the Notice of Allowance. As stated in the Declaration of Lai Fun Yu and Lisa Antonellis, they found no prior record of the Notice of Allowance.

13. I also directed Ms. Graziano to search the file jacket for any record of the Notice of Allowance, and as stated in her Declaration, she found none.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

4/16/08

Date



Frank J. DeRosa (Reg. No. 26,543)